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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,605	03/30/2004	Gunther Schiller	SCHILLER - 1	4379

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EXAMINER

DANIELS, MATTHEW J

ART UNIT	PAPER NUMBER
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1732

MAIL DATE	DELIVERY MODE
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08/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,605

Applicant(s)

SCHILLER, GUNTHER

Examiner

Matthew J. Daniels

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-14 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

2. Rejections set forth previously under this section are withdrawn in view of the cancellation of the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (USPN 4957424) in view of Hume (USPN 1768451) and Lewis (USPN 2305017). **As to Claim 15**, Mitchell teaches a method for the production of a multi-layer concrete pipe, comprising the steps:

pivoting a mold mantle, which stands essentially vertically on a turntable, into a first stand (Fig. 1); filling the mold mantle with a first concrete mixture by means of a first charging system (Fig. 1, item 10);

distributing and compacting the concrete mixture in the mold mantle by means of a rotating and vertically displaceable first compacting tool (Fig. 2, Item 38);

pivoting the mold mantle, which stands essentially vertically on the turntable, out of the first stand and removing a concrete pipe formed from the concrete mixture from the mold (Fig. 1, Item 23).

Mitchell is silent to the other limitations drawn to the second concrete mixture and the changing of tools. However, these aspects would have been *prima facie* obvious for the following reasons:

Lewis teaches application of a second concrete mixture, which is an acid-resistant concrete mixture (Page 1, right column, lines 17-32). It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to use a second charging system in order to apply the second concrete mixture of Lewis.

Hume teaches a charging system containing lining material (36, title) and a tool similar to that provided by Mitchell may be used for lining pipes (Page 1, left column, lines 1-7). It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to provide a second tool having a smaller diameter and substantially the same as Mitchell's first tool in order to provide Lewis' lining to the interior of a cementitious pipe. Hume additionally teaches that the distributing core may be detachably connected to the rod, which the Examiner interprets to be a quick-connect. Both Mitchell and Hume provide the distributing elements in the stand, and in order to provide both a pipe and a lining to the pipe, it would have been *prima facie* obvious to interchangeably use two tools and Hume's quick connect in order to provide a distributing tool and subsequently provide a lining tool with a smaller diameter.

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the methods of Hume and Lewis into that of Mitchell because doing so would provide a composition having improved resistance to wear and moisture propagation to the inner surface of the pipe and a rapid method for exchanging tools to provide the coating to the inner surface.

Response to Arguments

4. Applicant's arguments filed 10 May 2007 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

- a) The Examiner states that Lewis teaches the production of a concrete pipe, but Lewis is a centrifugal molding method.
- b) The method of Mitchell could not be used to produce a multi-layer concrete pipe. Neither Mitchell nor Lewis teaches to use a second charging system or even a second compacting tool.
- c) Hume neither teaches the production of a multi-layer pipe nor the use of a second charging system and second compacting tool. Thus, Hume seems to be of minor relevance with respect to present Claim 15.
- d) The screw attachment of the distributing core may be screwed to the upper end of a rod, but this is not a quick connect, and would take a considerably long time for exchanging tools.

5. These arguments are not persuasive for the following reasons:

- a) The statement that "Lewis teaches" at page 3, line 10 of the non-final rejection mailed 10 May 2007 is a typographical error. It is noted that the statement of the rejection recites that the

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rejection is made over “Mitchell (USPN 4957424) in view of Hume (USPN 1768451) and Lewis (USPN 2305017).” At line 19 of page 3, it is noted that “Mitchell” was found to be silent to certain aspects of the invention, consistent with the Graham inquiries directed to the base reference, but that these limitations would have been obvious over Lewis and Hume as recited at the bottom of page 3 and on page 4. Therefore, although a typographical error is acknowledged, it is submitted that the rejection was clearly intended to be made over Mitchell as the base reference.

b-d) The method of Lewis merely shows that it is known to provide the particular composition claimed for the inner surface of a concrete pipe.

The Examiner respectfully disagrees that the Hume method is of minor relevance to the claimed invention. Hume provides a process for making or lining pipes (title), and therefore the method is applicable to both steps of making and lining. In providing a device and apparatus for lining, Hume provides a hopper or charging system (36) which contains the material for lining the pipe. In view of the teachings of Lewis, namely that the lining and pipe may be made from different materials, it is submitted that it would be obvious for one provide a second charging system, such as that disclosed by Hume, which contains the lining material in addition to the charging system and method of Mitchell. In the subsequent lining of the formed pipe, it would have been obvious to use a second, smaller tool for application of the lining material.

It is submitted that there is no disclosure of any particular quick-change device which is distinguishable from a screw. The Examiner maintains the position that a screw attachment reads on the claimed quick-change device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD

MJD 8/16/07


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER